



PTO/SB/31 (06-09)

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**NOTICE OF APPEAL FROM THE EXAMINER TO
THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Docket Number (Optional)

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on June 15, 2009

Signature

Typed or printed name Clyde I. CoughenourIn re Application of
Abe NishikiApplication Number
10/687,748Filed
10/20/2003For **A PLIERS-LIKE TOOL AND PROCESS FOR CURING PHIMOSIS**Art Unit
3734Examiner
Blatt, Eric D.Applicant hereby **appeals** to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 41.20(b)(1))

\$ _____

☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is:

\$ _____

☐ A check in the amount of the fee is enclosed.☐ Payment by credit card. Form PTO-2038 is attached.☐ The Director has already been authorized to charge fees in this application to a Deposit Account.☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 03-3382☐ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒ attorney or agent of record. 33,083
Registration number☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34. _____
Signature
Clyde I. Coughenour
Typed or printed name**703-221-8677**

Telephone number

June 15, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.☒ *Total of 1 forms are submitted.

This collection of information is required by 37 CFR 41.31. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of: Abe Nishiki

Appeal No. _____

Serial No.: 10/687,748

Group Art Unit: 3734

Filed: 10/20/2003

Examiner: Gettman, Christina D.

For: **A PLIERS-LIKE TOOL AND PROCESS FOR CURING PHIMOSIS**

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RESPONSE

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Honorable Members of the Board of Patent Appeals and Interferences:

This is a response to the Office Communication dated 06/12/2009 stating that the Appeal Brief filed 22 December 2008 is defective because there was no new Notice of Appeal filed with the brief.

An Appeal Brief was filed 03/20/2008.

In response the Examiner entered a New Grounds of Rejection on 10/02/2008. A Reply Brief was filed on 12/22/2008.

Included in the Reply Brief was: "The jurisdiction of the Board is invoked under 35 USC 134 and 37 CFR 1.191. A Notice of Appeal and payment therefor and payment for filing a Brief were filed March 20, 2008.

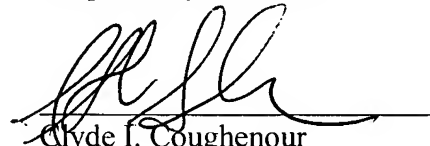
It is requested that the Appeal previously paid for be maintained. That brief was filed in response to the Examiner's Third New Grounds of Rejection in this application mailed 12/28/2007. That Notice of Appeal and Appeal Brief were timely filed.

This Reply Brief is timely filed in response to the Examiner's Fourth New Grounds of Rejection and first new grounds of rejection mailed on 10/02/2008 in response to the Appeal Brief mailed March 20, 2008."

Since the Examiner has held that the Reply Brief was, in fact, an entirely new brief, the reference to the original Notice of Appeal was not sufficient, a new Notice of Appeal is enclosed herewith. It is assumed that the original fee paid is sufficient to entitle a decision on the merit of this case by the Board of Appeals.

It is requested that the Examiner's Answer be entered and this case promptly sent to the Board of Appeals since this case is almost 6 years old.

Respectfully submitted


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